

COTTONWOOD HEIGHTS

ORDINANCE No. 355

AN ORDINANCE AMENDING SECTION 19.51.060 OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES REGARDING AFFORDABLE HOUSING IN THE PDD ZONE

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

WHEREAS, on 14 July 2005, the legislative body (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and

WHEREAS, thereafter, the City’s planning commission (the “*Planning Commission*”) formulated proposed amendments (the “*Amendments*”) to Section 19.51.060 of the Code concerning the provision of “below market rate” housing in the City’s PDD zone; and

WHEREAS, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed Amendments; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, following the public hearing, the Planning Commission recommended the Amendments to the Council for adoption; and

WHEREAS, the Council subsequently took additional public comment concerning the Amendments; and

WHEREAS, the Council has reviewed and is familiar with the Amendments, a copy of which is annexed as an exhibit to this ordinance, including any amendments proposed by the Council to the form of the Amendments recommended for adoption by the Planning Commission, as authorized by UTAH CODE ANN. 10-9a-502(2); and

WHEREAS, on 16 February 2021, the Council met in regular meeting to consider, among other things, amending the Code to enact the Amendments, including any such revisions; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing and other public meetings, and other relevant input, the

Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to adopt and enact the Amendments as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Amendments.** The Council hereby adopts and enacts the Amendments in the form of the attached exhibit, wherein deletions to the current ordinance are ~~struck through~~ and additions to the current ordinance are underlined.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this "*Ordinance*"), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance, assigned no. 344, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 6th day of October 2020.

ATTEST:

By: 
Paula Melgar, Recorder



COTTONWOOD HEIGHTS CITY COUNCIL

By: 
Michael J. Peterson, Mayor

VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Peterson	<input checked="" type="checkbox"/> Yea	<input checked="" type="checkbox"/> Nay
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	<input checked="" type="checkbox"/> Yea	<input checked="" type="checkbox"/> Nay
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 16th day of February 2021.

POSTED this 18th day of February 2021.

EXHIBIT TO ORDINANCE NO. 355

19.51.060 Site development regulations.

A. *Base Regulations.* The following table, designated “**Table 1: Site Development Regulations – Planned Development Districts**” (“*Table 1*”), sets forth the base site development regulations for the PDD, which are in addition to any further development regulations set forth in the PDZ ordinance for a property. Letter designations in the “Additional Regulations” column of Table 1 refer to the additional regulations that follow Table 1 in this section. The intent of these regulations is to promote vertical and horizontal mixed use development in a pedestrian-oriented environment.

Table 1: Site Development Regulations – Planned Development Districts

Standards	Tier 1	Tier 2	Tier 3	Additional Regulations
Area Requirement (in contiguous acres)	10	3	1*	(B)(1)
Lot Coverage	No Min. or Max.	65%	65%	(B)(2)
Building Height				
Minimum Bldg. Height (ft.)	25'	No Minimum	No Minimum	
Maximum Bldg. Height (ft.)	Varies from 50'-300' from Wasatch Blvd. elevation	50'	35'*	(B)(3)

Table 1: Site Development Regulations – Planned Development Districts

Standards	Tier 1	Tier 2	Tier 3	Additional Regulations
Min Bldg. Setback (ft.)				(B)(4)
Front	0	0	0	
Side (Street)	0	0	0	
Side (Residential)	50' from adjacent residential properties outside project area	Same as adjacent residential zone	Same as adjacent residential zone	
Side (Nonresidential)	0	0	0	
Rear (Residential)	50' from adjacent residential properties outside project area	Same as adjacent residential zone	Same as adjacent residential zone	

Rear (Nonresidential)	0	0	0	
Storefronts & Access	Yes	Yes	Yes	(B)(5)
Building Transparency	Yes	Yes	Yes	(B)(6)
Open Space	25%* gross lot area	15% gross lot area	15% gross lot area	(B)(7)
Landscape				(B)(8)
Off-Street Parking and Loading	The development plan may require the provision of a minimum number of on-site parking and loading spaces.			(B)(9)
Parking setback				
Pedestrian Circulation	Yes	Yes	Yes	(B)(10)
Signage	Master sign program required			(B)(11)
Below Market Rate (BMR)/ Senior/ Disabled Housing	10% of total residential for projects with 50 or more units	10% of total residential for projects with 25 or more units	% of total residential for projects with 25 or more units	(B)(12)
Exterior Lighting Standards	Yes	Yes	Yes	(B)(13)
Residential Density - Dwelling Units / Acre	Based on IBC/IRC Occupancy	35 dwelling units/acre	20 dwelling units/acre	

B. Additional regulations.

1. Area requirement. An application for a PD zone may be submitted and approved only for a site containing the specified minimum acreage; provided, however, that the area requirement in Tier 3 may be reduced on a case-by-case basis if approved by the city council following recommendation by the planning commission.

2. Lot coverage.

(a) The following areas are to be included for the purpose of computing lot coverage:

- (i) All buildings, including dwellings; and
- (ii) All accessory structures, including sheds, garages, pool structures, carports, decks, roof overhangs exceeding 20", platform walkways and similar structures.

(b) The following areas are to be excluded for the purpose of computing lot coverage:

- (i) Existing grade level walkways and driveways; and
- (ii) Retaining walls and fences.

3. Maximum building height.

(a) The maximum building height in any Tier 1 PD zone will be determined by the setback of the building from the public right of way for Wasatch Boulevard, and will be the height measurement in feet for that setback shown in the following table:

Setback from Wasatch Blvd.	Building Height (ft.)
0 to 20'	No Building
20' to 50'	60' Height*
50' to 100'	100' Height*
100' to 250'	120' Height*
250' to 500'	150' Height*
500' and more	300' Height*

**Measured from the average grade elevation of Wasatch Boulevard.*

(b) The maximum building height in any Tier 2 PD zone is 50 feet if the first two stories (beginning at the street level) are commercial and/or office uses. The maximum building height is reduced to 35 feet for any building that either does not have commercial/office uses on the first two stories or is located within 50 feet of a single-family zoning district.

(c) The maximum building height in any Tier 3 PD zone is 35 feet if the first story (at street level) is a commercial and/or office use. The maximum building height is reduced to 30 feet for any building that is located within 50 feet of a single-family zoning district. Notwithstanding the foregoing, however, the building height in a Tier 3 PD zone may exceed 35 feet, to a maximum of 50 feet, if so specified in the PDZ ordinance, so long as the proposed building will contain commercial/office uses on the first two stories, is adjacent to a more intensive development, and is not located within 50 feet of a single-family zoning district.

(d) Building height shall not exceed the corresponding building height for each tier in the table measured from the grade plane as defined in the city's building code (the "*building code*"). Parapet walls, rooftop penthouses, landscaping and vegetative amenities and other similar architectural features may extend above the maximum building height provided they contribute to the overall architectural character of the building as determined by the city's architectural review commission ("*ARC*") and contain only mechanical or other apparatus necessary for the operation of the building.

4. Setbacks.

(a) Setbacks from the public right of way shall be determined by the site plan approved as part of the PDZ ordinance for a site. Typically, setbacks shall be measured from one foot behind the public sidewalk or, if no sidewalk exists, one foot behind the top of curb. Other setbacks shall be measured from the property line of the adjoining tract. There shall be no setbacks for buildings from internal lot lines within the PDD unless required by the building code or Table 1.

(b) Fifty percent (50%) of ground floor building facades shall be located at the setback line when the building fronts on an arterial or collector street. If authorized in the PDZ ordinance, permanent shade structures such as canopies and arcades may encroach up to ten feet within the setback area when abutting an arterial or collector street, so long as a vertical clearance of at least ten feet above finished grade is maintained.

(c) Outdoor dining areas adjacent to public streets shall provide a minimum of six feet of unobstructed pedestrian circulation, or such greater distance as may be specified in the PDZ ordinance.

(d) Building street facades above the street level may not encroach into the setback area more than ten feet.

5. **Storefronts and access (retail and commercial areas).** A minimum of 50% of the height and width of the ground floor frontage of principal buildings shall consist of windows, window displays, doors, or a combination thereof. In Tier 1 areas, this requirement will be defined in the approved site plan and project design guidelines manual.

6. **Transparency (retail and commercial areas).**

(a) On the ground floor, view windows, window displays, or doors shall be provided between two and eight feet above grade adjacent to the principal building frontage.

(b) A minimum of 25% of a building's upper floor (above the ground floor) elevations along streets shall have view windows with non-reflective glass.

(c) In Tier 1 areas, the transparency requirements shall be defined in the approved site plan and project design guidelines manual.

7. Open space. Open space shall be provided in the form of natural areas meriting preservation, landscaping, pedestrian plazas, atriums and other significant spaces open to the public. Vehicular circulation and parking areas shall not qualify as open space but are required to meet parking and landscaping requirements. At least 75% of required open space must be ground level in Tier 1 areas.

8. Landscaping. Prior to the use or occupancy of any premises in a PD zone, the following landscaping requirements must be met:

(a) Provide a total landscaped area equal to at least 25% of the gross land area in that PD zone. The landscaped area may be provided at the ground level or on upper level balconies, decks or roofs (such as with permanently affixed planter boxes), or any combination thereof. At least 60% of the landscaped area shall be vegetated.

(b) Provide a ground level landscaped area equal to at least 15% of the gross land area in that PD zone.

(c) For landscaped areas designed as buffers, setbacks or visual backdrops, 40% of the area shall be vegetated with a combination of groundcover, vines, shrubs, and trees. These areas must be at least eight feet wide.

(d) For large paved pedestrian spaces such as courtyards or plazas, a 12-foot tall/two inch caliper conifer, or a 15-gallon/eight-foot tall deciduous tree, shall be required for every 200 square feet of paved area. A 50% reduction in the number of trees may be permitted if at least 25% of the ground plane is vegetated with potted plants, vines, shrubs, or groundcover.

9. Parking.

(a) The minimum off-street parking requirement shall be specified in a parking plan approved as part of the PDZ ordinance using the standards of Chapter 19.80 (Off-Street Parking Requirements) of this code as a guide.

(b) The potential for shared use of on-site parking shall constitute an additional standard for possible reduction of required parking, subject to the standards of Section 19.80.110 of this code and a compelling demonstration that there will be adequate parking available for all uses.

(c) In Tier 1 areas, twenty-five percent of all required parking shall be structured parking. 50% of all required parking shall be integrated within buildings behind active uses or appropriately screened from sensitive views from any public street, residential property or public pedestrian way.

(d) Parking setback shall be determined by the site plan approved by the PDZ ordinance.

(e) Street level, surface parking shall be located behind or adjacent to buildings or screened by a minimum ten foot tall landscaped berm.

(f) Minimum parking lot setbacks are as follows:

(i) Wasatch Boulevard lot lines: 20 feet or as specified in the PDZ ordinance.

(ii) Fort Union Boulevard lot lines: 30 feet.

(iii) Highland Drive lot lines: 30 feet.

(iv) Abutting land used for single family residential: 20 feet.

(v) All other property lines: 8 feet.

(g) Where a nonresidential use in a proposed PD zone cannot provide all the required parking spaces on-site, off-site parking may be approved as part of the PDZ ordinance subject to revocation of such approval if the use of the site materially changes and further subject to the following additional requirements:

(i) The off-site parking spaces shall be located within 600 feet of the use;

- (ii) The off-site parking spaces shall be improved to the standards set forth in this code; and
- (iii) The applicant shall provide recorded, legally effective and perpetual cross-easements for parking or evidence provided of adequate public parking.

10. Pedestrian Circulation. Each PD zone shall comply with the following pedestrian circulation regulations:

(a) Sidewalks and pedestrian walkways shall be provided in accordance with a submitted pedestrian circulation plan approved as part of the PDZ ordinance.

(b) Minimum requirements for public sidewalks in a PD zone include:

(i) Continuous sidewalks with a minimum width of six feet shall be located along both sides of collector and arterial public streets and both sides of internal private street(s). Sidewalks along Fort Union Boulevard and Wasatch Blvd shall have a minimum width of eight feet.

(ii) Sidewalk(s) along the private street(s) shall be located within a public pedestrian easement to be shown on the final plat granting access to the public.

(c) Minimum requirements for private pedestrian walkways in a PD zone include:

(i) Hard surfaced with a minimum width of five feet or such greater width as may be required by this section;

(ii) Readily visible and free of encroachment by parked vehicles;

(iii) Paved with concrete or other masonry products differentiated from the driveway and parking areas through the use of color, texture, or materials;

(iv) Predominantly shaded with deciduous shade trees spaced at one per 30 linear feet of walkway or building canopies; and

(v) Lighted with pedestrian-scaled fixtures.

(d) A pedestrian walkway shall connect a building entrance to the private or public street sidewalk.

(e) If parking is located between the street and the building, at least one walkway shall be provided to and through its associated parking area to connect a building entrance to a public street sidewalk.

(f) In order to create a safe pedestrian environment, multifamily residential buildings shall be placed and sited so that all required internal sidewalks are in view of at least one unit's living area windows.

(g) Internal sidewalks parallel and adjacent to a street or drive aisle shall be raised or separated from the street or drive aisle by a raised curb, landscaping or other physical barrier. If a raised internal sidewalk is used, the ends of the raised portions must be equipped with curb ramps.

(h) When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian walk must be increased in width to a minimum of seven feet when parking is located on one side, and a minimum of nine feet when parking is located on both sides.

(i) Minimum requirements for public plazas include:

(ii) Publicly-accessible plazas shall be located as shown on the approved site plan.

(iii) Each plaza shall include a decorative paving pattern.

(iv) Each plaza of up to 500 square feet in area shall include at least two benches, two shade trees and four bicycle parking spaces. An additional two benches, two shade trees and four bicycle parking spaces shall be provided for each additional increment of 500 square feet of plaza area, prorated for additional area of less than 500 square feet.

11. Signage.

(a) A master sign program shall be submitted as part of the application for a PD zone that details each type, material, color and location of each requested sign.

(b) Permitted signage shall be as specified in the PDZ ordinance, provided that OPEDS (as defined in Chapter 19.82) are not permitted. All permitted signs shall comply with all city development requirements in Chapter 19.82 (Signs). The size, location, appearance, and method of

operation of signage in a PD zone may be specified in the PDZ ordinance to the extent necessary to insure compliance with the purpose of this chapter.

~~12. Below market rate/senior/disabled housing requirement. All PD zone ordinances shall require the development to include below market rate or senior/disabled housing units (collectively, "BMR units") equal to at least ten percent (subject to a threshold) of the total number of dwelling units contained within the zone, as shown on Table 1. Required BMR units shall be affordable to households earning not more than 50% of the city's median income, and shall be provided in accordance with the standards, definitions and procedures contained in this code and/or the PDZ ordinance.~~
12. Below Market Rate (BMR) housing requirement.

(a) All PD zone ordinances shall require the development to include below market rate housing units ("BMR units"). The minimum number of BMR units in a project shall be based on the project's tier (see Table 1, above) and the requirements of this subsection (B)(12). The required BMR units shall be affordable to households whose total income is at or below (i) 50% of the city's area median income ("AMI"), and/or (ii) 50% AMI to 80% AMI. For applications proposing BMR housing that is affordable to households whose total income is at or below 50% AMI, at least 10% of the residential units in the project shall be BMR units that are affordable to households in that income category. For applications proposing BMR housing that is affordable to households whose total income is between 50% AMI and 80% AMI, at least 15% of the residential units in the project shall be BMR units that are affordable to households whose total income is between 50% AMI and 80% AMI. Applications proposing a mix of the two AMI housing groups listed above shall require between 10% and 15% BMR units, as determined by the city council to meet the intent of this subsection on a "blended" approach.

(b) The draft PDZ ordinance shall include appropriate language to ensure proper administration of, and guaranteeing ongoing compliance with, this subsection, including a requirement to record the final PDZ ordinance against legal title to the project in the official records of Salt Lake County in a recording priority that is reasonably agreed to by the project applicant and the city to assure ongoing constructive notice of, *inter alia*, the BMR requirements of this subsection.

C. Existing development.

1. Continued use of existing, legally non-conforming improvements, including buildings, landscaping, parking and other uses, may be authorized by a PDZ ordinance to facilitate the fullest attainment of the objectives of this chapter.

2. The area of the original lot supporting such non-conforming uses shall not be included in any calculations within the PD zone. Existing, legally non-conforming improvements or lots may be modified in connection with the PD zone development to achieve superior design, but shall not be expanded or extended. Any such modification shall not be deemed to render the improvements or lots more non-conforming.

D. Site design criteria. All development in a PD zone also shall satisfy the following site design criteria by providing a combination of the following:

1. Pedestrian oriented interface. A pedestrian oriented interface, which is defined as uses of buildings and/or design features that encourage pedestrian interaction at the street level. These include, without limitation, retail and commercial shops; space designed to be adaptable to retail uses; service businesses; establishments dealing directly with the general public; visually interesting features such as public art or building lobbies; display cases; accessible plazas; or similar landscaped open spaces and pedestrian promenades/walkways for public use and congregation.

2. Site plan promotes transit oriented development. Improvements that promote available transit-oriented development features, including pedestrian-friendly design, improvements at transportation nodes, and other similar features likely to promote public transit.

3. Environmentally sustainable design checklist. As part of the application, an environmentally sustainable design checklist shall be submitted that demonstrates the intent to design and build the proposed project in an environmentally sustainable manner. All projects in a PD zone should provide elements that comply with environmental design standards established by the Green Building Council or similar, and may incorporate xeriscaping, utilize native plants and drought-resistant vegetation, etc. Related documentation and requirements may be incorporated as part of the city's approval process in the PDZ ordinance or otherwise.